

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RICHARD LIVINGSTON,

Petitioner,

-against-

9:18-CV-803  
(BKS/DJS)

CHRISTOPHER MILLER,

Respondent.

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**APPEARANCES:**

**OF COUNSEL:**

RICHARD LIVINGSTON

Petitioner *Pro Se*

14-B-3634

Great Meadow Correctional Facility

Box 51

Comstock, New York 12821

HON. BARBARA D. UNDERWOOD

Attorney General for the State of New York

Attorney for Respondent

28 Liberty Street

New York, New York 10005

JODI A. DANZIG, ESQ.

Assistant Attorney General

**DANIEL J. STEWART**

**United States Magistrate Judge**

**ORDER**

Petitioner here is the Plaintiff in another action presently pending in this District, *Livingston v. Henderson*, 7:15-CV-631, which is assigned to Magistrate Judge Thérèse Wiley Dancks. Petitioner has filed a Motion to Consolidate this action with *Livingston v. Henderson*. Dkt. No. 9. He filed the same motion in the action pending before Magistrate

Judge Dancks. In a Decision and Order, dated October 31, 2018, Judge Dancks denied the motion. *Livingston v. Henderson*, 7:15-CV-631, Dkt. No. 128.

Under Federal Rule of Civil Procedure 42(a) when cases “involve a common question of law or fact” consolidation may be appropriate. Judge Dancks’ Decision and Order noted that, among other things, this action and *Livingston v. Henderson* do not share such common questions of law or fact nor are the parties the same in the two actions. *Livingston v. Henderson*, 7:15-CV-631, Dkt. No. 128 at pp. 2-3. For all the reasons given by Magistrate Judge Dancks, the Motion to Consolidate that was filed in this action should also be denied.

Accordingly, it is hereby

**ORDERED**, that Petitioner’s Motion to Consolidate (Dkt. No. 9) is **DENIED**, and it is further

**ORDERED**, that the Clerk of the Court serve a copy of this Decision and Order on the parties to this action.

Date: October 31, 2018  
Albany, New York

  
Daniel J. Stewart  
U.S. Magistrate Judge